



Embassy of the United States of America
100 Duke & Young Streets, Kingston, Georgetown, Guyana

Installment Ninety-Eight Ask the Consul – Immigrant Visas II

This edition of Ask the Consul continues from Installment 97 to answer additional questions that are frequently received by the U.S. Embassy concerning permanent migration to the United States.

Q: My husband has not yet filed for me and our son. Can we get a K3 and K4 visa?

The Embassy receives many questions about the issuance of K3 and K4 visas. These visas are issued to the spouse of a U.S. Citizen (K3) and the children of the beneficiary (K4). These visas are issued in order to join the spouse in the United States and to facilitate reunification, but they cannot be issued until a petition has been initiated and approved.

Q: My family was sponsored a few years back. However, my daughter turned 21. Will she be able to travel with us when we get our visa?

This question refers to a situation called “aging out,” in which an applicant might be allowed to migrate with his parents even if the applicant older than 21 years of age at the time the visa is received. The Child Status Protection Act (CSPA) was signed into law on August 6, 2002. CSPA was enacted to address the problem of minor children losing their eligibility for immigration benefits because they had “aged-out,” that is turned 21 years old while their applications were being processed by the U.S. Citizenship and Immigration Services or Department of State. It is not intended to benefit an applicant who aged-out due to the unavailability of a visa number.

The eligibility of an applicant for benefits under the aging-out provisions of the CSPA may be determined only at the time a visa application is adjudicated by a consular officer.

Children of U.S. citizens. Under the law, the following three categories of children are classified as immediate relatives, even though they have reached the age of 21 before the final adjudication of their applications for permanent residence:

- Children of U.S. citizens who are under the age of 21 on the date their parents file an I-130 petition for them;

- Children whose permanent resident parents naturalize after filing I-130s for them, as long as they were under the age of 21 on the date their parents naturalized; and
- Married sons and daughters who divorce after their U.S. citizen parents file I-130s for them, as long as they were under the age of 21 on the date of their divorce.

Children of permanent residents. The law creates a formula for calculating age that protects some children from "aging out" of the family preference, employment-based, and diversity categories. The age of child applicants—both as principals and derivatives—is determined by taking the age of the child when the immigrant visa becomes available and subtracting the number of months during which the visa petition was pending. In the family preference categories, this means that children of permanent residents who are over 21 when their priority dates become current may still immigrate as children if, by subtracting the number of months that their I-130 was pending, their age falls below 21.

This formula can only be used by applicants who remain unmarried and who apply for permanent residence within one year of the date that an immigrant visa becomes available to them. Applicants whose age is determined to be over 21 under this formula are automatically reclassified to the appropriate category (e.g., unmarried sons and daughters of permanent residents) and their original priority date is retained.

Answers to many other questions about permanent migration may be found online at <http://georgetown.usembassy.gov/immigrant-visas.html> or at <http://travel.state.gov/>. The U.S. Embassy wishes to remind the public that any other source of visa information is not sanctioned by the U.S. Government and may contain false or inaccurate information. If you have particular questions concerning your case, please contact the visa inquiries unit (email visageorge@state.gov or call 225-7965) between 8 am and 4 pm Monday through Friday.

“Ask the Consul” is a bi-weekly column from the U.S. Embassy answering questions about U.S. immigration law and visa issues. If you have a general question about visa policy please email it to us at AskGeorge@state.gov. We select questions every other week and publish the answers in Stabroek News and on our website at <http://georgetown.usembassy.gov/ask-the-consul.html> For more information about visas please see <http://www.unitedstatesvisas.gov> or <http://georgetown.usembassy.gov/>.

Other than the questions we select, we DO NOT respond to specific visa cases sent to Ask the Consul. Please contact the visa inquiries unit (email visageorge@state.gov or call 225-7965 between 8 am and 4 pm Monday through Friday) if you have questions about a specific case.